



# Borders, Citizenship and Immigration Act 2009

## 2009 CHAPTER 11

### PART 2

#### CITIZENSHIP

##### *Acquisition of British citizenship etc. by registration*

#### 43 Minors

- (1) Section 3 of the British Nationality Act 1981 (c. 61) (acquisition by registration: minors) is amended as follows.
- (2) In subsection (2), for “within the period of twelve months from the date of the birth” substitute “ while he is a minor ”.
- (3) Omit subsection (4).

#### Annotations:

#### Commencement Information

**II** S. 43 in force at 13.1.2010 by S.I. 2009/2731, art. 4(b)

#### 44 British Nationals (Overseas) without other citizenship

- (1) Section 4B of the British Nationality Act 1981 (acquisition by registration: certain persons without other citizenship) is amended as follows.
- (2) In subsection (1)—
  - (a) omit “or” immediately before paragraph (c), and
  - (b) after that paragraph insert “, or

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(d) British National (Overseas)”.

(3) In subsection (2)(c), for “4th July 2002” substitute “ the relevant day ”.

(4) After subsection (2), insert—

“(3) For the purposes of subsection (2)(c), the “relevant day” means—

- (a) in the case of a person to whom this section applies by virtue of subsection (1)(d) only, 19th March 2009, and
- (b) in any other case, 4th July 2002.”

**Annotations:**

**Commencement Information**

**I2** S. 44 in force at 13.1.2010 by [S.I. 2009/2731](#), [art. 4\(c\)](#)

**45 Descent through the female line**

(1) Section 4C of the British Nationality Act 1981 (the title to which becomes “Acquisition by registration: certain persons born before 1983”) is amended as follows.

(2) In subsection (2), omit “after 7th February 1961 and”.

(3) For subsection (3) substitute—

“(3) The second condition is that the applicant would at some time before 1st January 1983 have become a citizen of the United Kingdom and Colonies—

- (a) under section 5 of, or paragraph 3 of Schedule 3 to, the 1948 Act if assumption A had applied,
- (b) under section 12(3), (4) or (5) of that Act if assumption B had applied and as a result of its application the applicant would have been a British subject immediately before 1st January 1949, or
- (c) under section 12(2) of that Act if one or both of the following had applied—
  - (i) assumption A had applied;
  - (ii) assumption B had applied and as a result of its application the applicant would have been a British subject immediately before 1st January 1949.

(3A) Assumption A is that—

- (a) section 5 or 12(2) of, or paragraph 3 of Schedule 3 to, the 1948 Act (as the case may be) provided for citizenship by descent from a mother in the same terms as it provided for citizenship by descent from a father, and
- (b) references in that provision to a father were references to the applicant's mother.

(3B) Assumption B is that—

- (a) a provision of the law at some time before 1st January 1949 which provided for a nationality status to be acquired by descent from a father provided in the same terms for its acquisition by descent from a mother, and

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- (b) references in that provision to a father were references to the applicant's mother.
- (3C) For the purposes of subsection (3B), a nationality status is acquired by a person (“P”) by descent where its acquisition—
- (a) depends, amongst other things, on the nationality status of one or both of P's parents, and
  - (b) does not depend upon an application being made for P's registration as a person who has the status in question.
- (3D) For the purposes of subsection (3), it is not to be assumed that any registration or other requirements of the provisions mentioned in that subsection or in subsection (3B) were met.”
- (4) After subsection (4) insert—
- “(5) For the purposes of the interpretation of section 5 of the 1948 Act in its application in the case of assumption A to a case of descent from a mother, the reference in the proviso to subsection (1) of that section to “a citizen of the United Kingdom and Colonies by descent only” includes a reference to a female person who became a citizen of the United Kingdom and Colonies by virtue of—
- (a) section 12(2), (4) or (6) only of the 1948 Act,
  - (b) section 13(2) of that Act,
  - (c) paragraph 3 of Schedule 3 to that Act, or
  - (d) section 1(1)(a) or (c) of the British Nationality (No. 2) Act 1964.”

**Annotations:**

**Commencement Information**

**I3** S. 45 in force at 13.1.2010 by S.I. 2009/2731, art. 4(d)

**46 Children born outside UK etc. to members of the armed forces**

After section 4C of the British Nationality Act 1981 (c. 61) insert—

**“4D Acquisition by registration: children of members of the armed forces**

- (1) A person (“P”) born outside the United Kingdom and the qualifying territories on or after the relevant day is entitled to be registered as a British citizen if—
  - (a) an application is made for P's registration under this section; and
  - (b) each of the following conditions is satisfied.
- (2) The first condition is that, at the time of P's birth, P's father or mother was—
  - (a) a member of the armed forces; and
  - (b) serving outside the United Kingdom and the qualifying territories.
- (3) The second condition is that, if P is a minor on the date of the application, the consent of P's father and mother to P's registration as a British citizen has been signified in the prescribed manner.

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- (4) But if P's father or mother has died on or before the date of the application, the reference in subsection (3) to P's father and mother is to be read as a reference to either of them.
- (5) The Secretary of State may, in the special circumstances of a particular case, waive the need for the second condition to be satisfied.
- (6) The relevant day for the purposes of this section is the day appointed for the commencement of section 46 of the Borders, Citizenship and Immigration Act 2009 (which inserted this section)."

**Annotations:**

**Commencement Information**

**I4** S. 46 in force at 13.1.2010 by S.I. 2009/2731, art. 4(e)

**47 Good character requirement**

- (1) After section 41 of the British Nationality Act 1981 insert—

**“41A Registration: requirement to be of good character**

- (1) An application for registration of an adult or young person as a British citizen under section 1(3), (3A) or (4), 3(1), (2) or (5), 4(2) or (5), 4A, 4C, 4D, 5, 10(1) or (2) or 13(1) or (3) must not be granted unless the Secretary of State is satisfied that the adult or young person is of good character.
  - (2) An application for registration of an adult or young person as a British overseas territories citizen under section 15(3) or (4), 17(1) or (5), 22(1) or (2) or 24 must not be granted unless the Secretary of State is satisfied that the adult or young person is of good character.
  - (3) An application for registration of an adult or young person as a British Overseas citizen under section 27(1) must not be granted unless the Secretary of State is satisfied that the adult or young person is of good character.
  - (4) An application for registration of an adult or young person as a British subject under section 32 must not be granted unless the Secretary of State is satisfied that the adult or young person is of good character.
  - (5) In this section, “adult or young person” means a person who has attained the age of 10 years at the time when the application is made.”
- (2) In section 1 of the Hong Kong (War Wives and Widows) Act 1996 (c. 41) (acquisition of British citizenship), in subsection (1)—
- (a) omit “and” immediately before paragraph (b), and
  - (b) after that paragraph insert “; and
  - (c) the Secretary of State is satisfied that she is of good character”.
- (3) In section 1 of the British Nationality (Hong Kong) Act 1997 (c. 20) (acquisition of British citizenship), after subsection (5) insert—

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- “(5A) An adult or young person shall not be registered under subsection (1) unless the Secretary of State is satisfied that the adult or young person is of good character.
- (5B) In subsection (5A), “adult or young person” means a person who has attained the age of 10 years at the time when the application for registration is made.”
- (4) In section 131 of the Nationality, Immigration and Asylum Act 2002 (c. 41) (supply of police information), for paragraph (b) substitute—
- “(b) determining whether, for the purposes of an application referred to in section 41A of the British Nationality Act 1981, the person for whose registration the application is made is of good character;
  - (ba) determining whether, for the purposes of an application under section 1 of the Hong Kong (War Wives and Widows) Act 1996, the woman for whose registration the application is made is of good character;
  - (bb) determining whether, for the purposes of an application under section 1 of the British Nationality (Hong Kong) Act 1997 for the registration of an adult or young person within the meaning of subsection (5A) of that section, the person is of good character;”.
- (5) In section 40 of the UK Borders Act 2007 (c. 30) (supply of Revenue and Customs information), in subsection (1), for paragraph (h) substitute—
- “(h) determining whether, for the purposes of an application referred to in section 41A of the British Nationality Act 1981, the person for whose registration the application is made is of good character;
  - (ha) determining whether, for the purposes of an application under section 1 of the Hong Kong (War Wives and Widows) Act 1996, the woman for whose registration the application is made is of good character;
  - (hb) determining whether, for the purposes of an application under section 1 of the British Nationality (Hong Kong) Act 1997 for the registration of an adult or young person within the meaning of subsection (5A) of that section, the person is of good character;”.

**Annotations:****Commencement Information**

**I5** S. 47 in force at 13.1.2010 by S.I. 2009/2731, art. 4(f)

**Changes to legislation:**

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